

Notice of Allowability

Application No.

09/937,260

Examiner

Ljiljana (Lil) V. Ciric

Applicant(s)

FAMME, PER BRUUN

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to reply filed on 13 Aug 2004 and telephonic interview of 29 Nov 2004.
2. ☒ The allowed claim(s) is/are 1,4,6-8 and 10.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 11292004.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit: 3753

Art Unit: 3753

EXAMINER'S AMENDMENT

1. Claim 1 is generic to some of the species and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 4, 6, and 7, directed to the previously non-elected first, third, and fifth species, are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim. However, claims 2, 3, 9, and 11 through 15, directed to the non-elected second, fourth, sixth, eighth, and ninth species of the instant application remain withdrawn from consideration since claims 2, 3, 9, and 11 through 15 do not depend upon or otherwise include all the limitations of an allowed generic claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Wesley O. Mueller, Registration No. 33,976, on November 29, 2004.

The application has been amended as follows:

In the claims:

Claim 1, line 2: Delete "passageway" and replace with -side--(both occurrences).

Claim 1, line 3: Delete "passageway" and replace with -side-- (both occurrences).

Claim 1, line 5: Delete "passageway" and replace with -side--.

Claim 1, line 7: Delete "passageway" and replace with -side--.

Claim 1, line 8: Delete "passageway" and replace with -side--.

Claim 1, line 10: Delete "passageway" and replace with -side—(both occurrences).

Claim 1, line 11: Delete "passageway" and replace with -side--.

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Claim 1, line 12: Delete "passageway" and replace with --side-. Also, delete "is about the same as" and replace with --corresponds to--.

Cancel claims 2 and 3 (drawn to non-elected species).

Claim 4, line 2: Delete "the" immediately preceding "liquid" and replace with --a given--.

Cancel claim 5.

Cancel claim 9 (drawn to non-elected species).

Cancel claims 11 through 15 (drawn to non-elected species).


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (571) 272-4909.

While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene, can be reached at (571) 272-4930.

lvc

November 29, 2004


LJILJANA V. CIRIC
PRIMARY EXAMINER
ART UNIT 3753